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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,783	07/06/2001	Paul Henrichs	Mo-6410/LeA 34,193	7684

157 7590 07/09/2003

BAYER POLYMERS LLC
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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

9

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,783

Applicant(s)

HENRICHS ET AL.

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

Response to Amendment

3. Claims 1-3, 6-7 and newly added claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/14587 in view of Applicants' admitted prior art, substantially for the reasons set forth in section 12 of Paper No. 7, together with the following additional observations.

With respect to Applicant's Response arguing that the newly amended claim 1 now recites an article including both (i) a surface layer comprising at least one of polymethyl methacrylate (PMMA), etc., and (ii) and an underlying polyurethane foam layer, and WO '587 does not disclose, teach or suggest a multilayer article comprising the aforementioned elements (Response, page 7, second full paragraph), the Examiner notes that it appears that applicants appear to have admitted that articles, such as sanitary fittings, having a PMMA surface and a spray coated supporting polyurethane sandwich structure is known art (Specification, page 1, lines 10-13); further, WO '587 expressly teaches that the multilayer structure may be formed with a foam layer (page 5, lines 10-18). As such, it would have been obvious to one of ordinary skill in the art to make a multilayered structure as the instantly claimed invention, as taught by the

Art Unit: 1771

combined teachings of WO '587 and admitted prior art, motivated by the desire to improve the durability and to reduce the production cost (see Abstract of WO '587).

With respect to Applicants' contention that WO '587 does not disclose, teach or suggest the improved physical properties (e.g., impact resistance) provided by the multilayered articles of the instantly claimed invention (Response, page 7, bottom paragraph), the Examiner notes that the aforementioned physical properties are not recited in any of the claims.

Applicants' Response at page 8 in part "Regarding the comments on 5 ..." is vague and indefinite. The Examiner assumed that Applicants are responding to page 5 of Paper No. 7, regarding the obviousness reasoning. The Examiner repeats that it would have been obvious to one of ordinary skill in the art to make a multilayered structure as the instantly claimed invention, as taught by the combined teachings of WO '587 and Applicants' admitted prior art, motivated by the desire to improve the durability and to reduce the production cost, as set forth above.

For the optional layers in newly amended claims 1, 2 and newly added claims 9 and 10, the Examiner notes that since they are claimed as optional, there is no requirement for the prior art to provide or account for them.

For newly added claim 8, it is noted that Applicants appear to have admitted that a multilayered structure comprising a PMMA surface is known art, as set forth above.

For newly added claims 11 and 12, the Examiner repeats (see page 5 of Paper No. 7) that WO '587 expressly teaches that the layers of the structure may be any thickness, with a preferred range of 2-40 mil (page 8, last paragraph).

For newly added claims 13 and 14, it is believed that the surface of Applicants' admitted prior art, such as the surface of sanitary fittings, is either inherently disclosed as a decorative surface layer, or an obvious modification to one skilled in the art, motivated by the desire to provide an aesthetic outer appearance of the product.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers

Art Unit: 1771

for the organization where this application or proceeding is assigned are 703-872-9310

for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC
July 7, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~
1700

Daniel Zinker